

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

DAVID HUNTER,

Plaintiff,

v.

CIVIL ACTION NO: 2:12-00031

MICHAEL J. ASTRUE,
Commissioner, Social Security
Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

On January 9, 2012, plaintiff instituted this action seeking judicial review of the Commissioner's final decision pursuant to 42 U.S.C.A. § 405(g). The sole issue before the court is whether the decision denying plaintiff's claim for income and benefits is supported by substantial evidence. See 45 U.S.C.A. § 405(g).

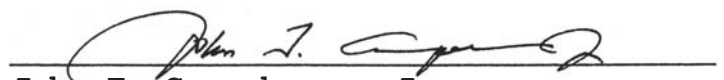
By standing order this action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge. On December 18, 2012, the magistrate judge filed her Proposed Findings and Recommendation ("PF&R"). In the PF&R, the magistrate recommends that the Commissioner's final decision be reversed and remanded for further proceedings pursuant to section 405(g) respecting the plaintiff's exertion limitations and skill level.

Neither party has objected to the recommendations offered by the magistrate judge. Upon review of the PF&R, the court concludes that the recommendations found therein are appropriate. It is, accordingly, ORDERED as follows:

1. That the PF&R be, and it hereby is, adopted and incorporated herein;
2. That the Commissioner's final decision be, and it hereby is, reversed;
3. That this action be, and it hereby is, reversed and remanded for further proceedings pursuant to section 405(g) respecting plaintiff's exertion limitations and skill level, his quite limited education level, and any additional matters warranting development in relation thereto, including reevaluation of the testimony of the vocational expert; and
4. That this civil action be, and it hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to all counsel of record and the United States Magistrate Judge.

DATED: January 18, 2013


John T. Copenhaver, Jr.
United States District Judge